

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

3.17 ACRES OF LAND, MORE OR
LESS, SITUATE IN STARR COUNTY,
TEXAS; AND JUAN MONTALVO,
ET AL.,

Defendants.

CASE NO. 7:08-CV-177

SECOND AMENDMENT TO COMPLAINT IN CONDEMNATION

On June 21, 2008, this proceeding commenced with the filing of a Complaint and Declaration of Taking in this Honorable Court in the name of the United States of America (“United States”) for the acquisition of a fee simple interest in land identified as Tract RGV-RGC-1005 (fee simple) and a twenty-four month temporary access easement identified as Tract RGV-RGC-1005E.¹

On August 2, 2017, an Amendment to the Complaint in Condemnation and Amendment to Declaration of Taking were filed² to clarify that Tract RGV-RGC-1005 was actually comprised of several tracts of land with different ownership interests; thus, Tract RGV-RGC-1005 became known as fee simple Tracts RGV-RGC-1104, RGV-RGC-1082, RGV-RGC-1081, RGV-RGC-1080, RGV-RGC-1079, RGV-RGC-1078, and RGV-RGC-1077, situate in Starr County, Texas.³

¹ Dkt. Nos. 1 and 2, respectively.

² Dkt. Nos. 22 and 23, respectively.

³ *Id.* at Schedules “CC” and “DD”.

Additionally, Tract RGV-RGC-1005E became known as Tracts RGV-RGC-1079E, RGV-RGC-1078E, and RGV-RGC-1077E, situate in Starr County, Texas.⁴

It is now necessary to further amend said Amendment to Complaint in Condemnation as follows:

- a. To clarify the legal description of acquired fee Tracts RGV-RGC-1104, RGV-RGC-1082, RGV-RGC-1081, RGV-RGC-1080, RGV-RGC-1078, and RGV-RGC-1077;
- b. To clarify the map for fee Tracts RGV-RGC-1104, RGV-RGC-1082, RGV-RGC-1081, RGV-RGC-1080, RGV-RGC-1078, and RGV-RGC-1077;

1. This is an amendment of a civil action brought by the United States of America at the request of the Secretary of the Department of Homeland Security, through the Acquisition Program Manager, Wall Program Management Office, U.S. Border Patrol Program Management Office Directorate, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security for the taking of certain interest in real property, under the power of eminent domain through a Second Amendment to Declaration of Taking, and for the determination and award of just compensation to the owners and parties in interest.

2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338.

3. The estate in the property taken herein is under and in accordance with the Act of Congress approved on February 26, 1931, as 46 Stat. 1421 and codified at 40 U.S.C. Section 3114, and the Act of Congress approved August 1, 1888, as 25 Stat. 357 and codified at 40 U.S.C. Section 3113, and any acts supplementary thereto and amendatory thereof; the Act of Congress approved September 30, 1996, as Public Law 104-208, Division C, Section 102, Stat. 3009-546, 3009-554, as amended and codified at 8 U.S.C. Section 1103(b) & note; and the Act of Congress approved

⁴ *Id.*

October 4, 2006, as Public Law 109-295, Title II, 120 Stat. 1355, which appropriated the funds which shall be used for the taking.

4. The public purpose for which said estate in the property taken is to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States-Mexico border within the State of Texas.

5. The clarified legal descriptions and plats of the lands heretofore acquired in this proceeding , identified as fee Tracts: RGV-RGC-1104, RGV-RGC-1082, RGV-RGC-1081, RGV-RGC-1080, RGV-RGC-1078, and RGV-RGC-1077, are set forth in Schedules “CCC” and “DDD” respectively, attached hereto and made a part hereof, which are in lieu of Schedules “CC” and “DD” for said tracts attached to the Amendment to Complaint in Condemnation.⁵

It is intended by this amendment that the Amendment to Complaint in Condemnation filed in this cause on August 2, 2017⁶, is not changed, and is not intended to be changed, in any respect except as hereinabove expressly set forth.

WHEREFORE, Plaintiff requests judgment that the stated estate in amended Tracts RGV-RGC-1104, RGV-RGC-1082, RGV-RGC-1081, RGV-RGC-1080, RGV-RGC-1078, and RGV-RGC-1077 be condemned; and, that just compensation for the taking of these fee tracts, to the extent not already established, be ascertained and awarded, and for such other relief as may be lawful and proper.

⁵ Dkt. No. 22.

⁶ *Id.*

Respectfully submitted,

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